REMARKS/ARGUMENTS

Favorable reconsideration of the present application is respectfully requested.

Applicant notes that Examiner Collado has confirmed, in a telephone discussion, that the discussion in the top paragraph of page 6 of the Office Action was set forth in error, and that the allowability of Claim 24 is confirmed. It is also Applicant's understanding from this discussion that the rejection of Claim 11 would be withdrawn in view of the point noted below. No agreement was reached concerning Claims 14 and 25.

Claim 11 recites that a working machine includes a guard cover and a radiator duct extending between the radiator and the guard cover, and that both are mounted to an upper rotating body of the working machine via a radiator support. For example, the guide duct 29 and the guard cover 26 are mounted via the radiator support 22. Claim 11 has again been rejected under 35 U.S.C. §102 as being anticipated by Kobayashi et al. '820. Applicant had previously argued that there is no description in Kobayashi et al. '820 of a radiator duct extending between the radiator 14 and the air intake 18, particularly one mounted to a support for the radiator 14. See the paragraph bridging pages 6-7 of the Response filed on May 11, 2007.

In reaffirming the rejection based upon Kobayashi et al. '820, the outstanding Office Action responds to this argument by noting that Kobayashi et al. '820 "discloses an air passage/duct labeled (Sa) in between Figure 3, element 14 (radiator) and Figure 3, element 19 (cover)." However there is no evidence that this "radiator duct" is "mounted to said upper rotating body via [a] radiator support provided on the upper frame." Instead, this "duct" is comprised by the engine housing 6, whereas the radiator 14 is mounted directly to the frame of the upper rotating body.

Claim 14 recites that a bonnet pivotally mounted to cover the engine and a side panel arranged on one lateral side at the rear part of the opening hood for covering the back side of

the engine, are both mounted to the upper rotating body via a mounting column provided on the upper frame. Applicant had pointed out in the Response filed on May 11, 2007 that Kobayashi et al. '820 fails to teach this feature (see paragraph bridging pages 7-8 of that Response). In reply, the outstanding Office Action noted that "element 3 [of Kobayashi et al. '820] is called a swivel deck...which is capable of swiveling/rotating" (Office Action, page 6). However, while this may be true, it does not detract from the fact that the rear hood portion 6b of Kobayashi et al. '820 is not mounted to the deck 3 via a mounting column which also mounts a side panel. Thus, it is respectfully submitted that the reply of the outstanding Official Action does not address the shortcoming of Kobayashi et al. '820 noted in the last Response.

Claim 25 recites that the bonnet and a separate muffler cover are mounted to the upper rotating body via the mounting column. The last Response pointed out that no muffler cover is disclosed in Kobayashi et al. '820 (see last Response, page 8). The outstanding Office Action has replied by noting that Kobayashi et al. '820 describes that a muffler may be disposed in a space of the engine hood 6, and so the engine hood 6 can be a muffler cover. However, it is respectfully noted that, even in such a case, the "muffler cover", i.e., engine hood 6, is not "covered by said bonnet," nor is it mounted together with the bonnet via a mounting column as is recited in Claim 25. Therefore, the reply of the outstanding Office Action fails to address the shortcomings of Kobayashi et al. '820 with respect to Claim 25.

In view of the above shortcomings of Kobayashi et al. '820, it is respectfully submitted that all of the claims define over this prior art.

Respectfully submitted,

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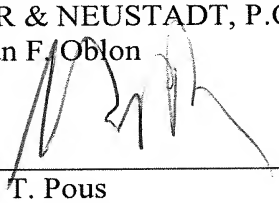

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